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KATHERINE M. CLARK
CONGRESS OF THE UNITED STATES
5TH DISTRICT OF MASSACHUSETTS

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March 12, 2019

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Pai:

I write regarding the Federal Communications Commission's (FCC) Further Notice of Proposed Rule Making in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by The Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05-0311 (proposed Rule Making).

Public, educational and governmental (PEG) channels play an integral role in providing important local content to viewers. These PEG access television channels serve our residents by providing hyper-local, non-commercial and educational programming platforms to our communities. Additionally, these PEG channels keep our communities safe through their emergency broadcast systems and engage viewers with their coverage of local government proceedings.

Stations in my district have expressed their concerns that the FCC proposal will jeopardize funding and eliminate their ability to produce the outlined programming that their communities rely on. As such, I offer my continued support to PEG channels and ask that you give their concerns every appropriate consideration.

Thank you for your time and attention to this matter. Should you have any questions or require additional information, please contact Wade Blackman in my district office at 617-354-0292.

Sincerely,

A handwritten signature in black ink that reads "Katherine M. Clark".

Katherine M. Clark
Member of Congress



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

March 19, 2019

The Honorable Katherine M. Clark
U.S. House of Representatives
2448 Rayburn House Office Building
Washington, D.C. 20515

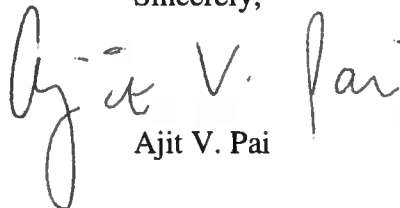
Dear Congresswoman Clark:

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public, educational, or governmental (PEG) channels. As you know, the Communications Act limits franchise fees to 5% of cable revenues and defines “franchise fee” to include “any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such.” 47 U.S.C. § 542(g)(1). The U.S. Court of Appeals for the Sixth Circuit has held that the terms “tax” and “assessment” can include nonmonetary exactions. *Montgomery County, Md. et al. v. FCC*, 863 F.3d 485, 490-91 (6th Cir. 2017).

In response to a remand from the Sixth Circuit, the Commission unanimously issued its Second Further Notice of Proposed Rulemaking to consider the scope of the congressionally-mandated statutory limit on franchise fees. Among other things, the Commission observed that Congress broadly defined franchise fees; indeed, with respect to PEG channels, it only excluded support payments with respect to franchises granted prior to October 30, 1984 as well as capital costs required by franchises granted after that date. 47 U.S.C. § 542(g)(2)(B) & (C). The record of this proceeding remains open, and I encourage all interested parties and stakeholders—including local franchising authorities—to provide us with relevant evidence regarding these issues so that the Commission can make the appropriate judgment about the path forward, consistent with federal law. Your views will be entered into the record of the proceeding and considered as part of the Commission’s review.

Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai